

The Board of Adjustment of the City of Seabrook met on Wednesday, May 8, 2013 at City Hall, 1700 First Street, Seabrook, Texas in regular session to consider the following agenda items.

**THOSE PRESENT WERE:**

SUE ELLEN LANGGARD	CHAIRMAN
GAIL POSTON	VICE CHAIRMAN
EDELMIRO MUNIZ	MEMBER
JOSEPH FARELLA     Excused Absence	MEMBER
JOHN DOLAN	MEMBER
RICHARD NGUYEN	ALTERNATE MEMBER
ROBERT DUNCAN	ALTERNATE MEMBER
STEVE WEATHERED	CITY ATTORNEY
SEAN LANDIS	DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT
ALESIA HAMMOCK	SECRETARY

Chairman Langgard called the meeting to order at 7:00 p.m. and stated there was a quorum present.

Chairman Langgard stated that the voting members were: John Dolan, Sue Langgard, Edelmiro Muniz, Richard Nguyen, and Gail Poston.

**1.0 PUBLIC COMMENTS AND ANNOUNCEMENTS - None**

**2.0 SPECIFIC PUBLIC HEARINGS**

**2.1 Request for a variance of 0 feet to the 10 foot side-yard setback for boathouses in the R-1 (Single-family detached) zoning district.**

Sean Landis gave a brief report. He stated that the applicant wishes to construct a boathouse with the outside dimensions of approximately 44' x 16' to house a cigarette boat. The width of the property is approximately 50'.

Mr. Landis stated that Section 4.12 requires a boathouse to be setback a minimum of 10' from all side property lines. The applicant requests a variance to Section 4.12 requesting a side setback of 0'. If the variance is granted the proposed boathouse would be constructed directly on the southern side property line and 5'11" from the northern side property line. He stated that the applicant has contacted and received approvals to construct the proposed boathouse from the adjacent property owner, the Texas General Land Office along with the Neighborhood Home Owners Association.

Mr. Landis stated that the lot width is approximately 51'7" and the width of the proposed boathouse is 45'8" approximately and 15'3" approximately. He stated that what the applicant is requesting is to build this structure on the property line on one side and leave approximately 5'11" on the other side. Section 4.12 requires a 10' setback from both of the side property lines. Mr. Landis stated that while investigating the existing conditions in the area, he found that quite a few boathouses were constructed along this channel prior to the adoption of the current ordinance. He stated that all of the boathouses, adjacent to the subject property, are built with a zero lot line setback. In order to gain access, they built the boathouses at an angle.

Robert Duncan asked if any of the neighbors had issues with the variance request.

51  
52 Mr. Landis stated no.  
53

54 Gail Poston asked if the other boathouses were built to both property lines.  
55

56 Mr. Landis stated no, just to one property line.  
57

58 Keith Carwile, Lakeside Landing, Seabrook, Texas, after being sworn in, stated that all of the  
59 homes in that area are built on very narrow lots. He stated that the minimum boathouse length, in  
60 order to cover his boat, a roof overhang and a couple of feet of walk would require a minimum of  
61 at least 35 feet. Mr. Carwile stated that he had spoken with both of his neighbors and they did not  
62 have any issues with the variance request.  
63

64 **2.2 Request for a variance of ½ foot from the required 50 foot lot width requirement in the OS**  
65 **(Old Seabrook) zoning district.**  
66

67 Sean Landis gave a brief report. He stated that the applicant wishes to subdivide the property into  
68 2 Lots for the purpose of future development. During the review process it was found that the  
69 property had an abnormal width of 99' in lieu of the norm of 100'. Upon review of an area plat it  
70 was found that a survey error may exist dating back to 1923 which in effect created a 1' un-  
71 owned and un-claimed strip of land adjoining the southern border of the property with the  
72 adjoining lot. The 1' strip, if combined with the deeded and platted 99' wide lot would yield a  
73 100' lot like other properties within the city.  
74

75 Mr. Landis stated that Section 3.12.02(B) 2 (F) states: "Lot width: Each lot shall have a minimum  
76 width of not less than 50 feet at the front building line." Due to the apparent surveying error the  
77 applicant does not meet the 100' width required to subdivide the property in question into two  
78 lots. Therefore, the request is being made for a variance of ½ foot from the required 50 foot lot  
79 width requirement in the OS (Old Seabrook) Zoning District. He stated that the minimum lot  
80 area in the OS zoning district is 6,000 sq. ft. for platting. When he plats these lots, due to the  
81 depth that he has, if this variance is granted these lots will be 7,425 sq. ft. which is 1,425 sq. ft.  
82 greater than what the minimum lot area is required to be.  
83

84 Edward Muniz asked if the variance would apply to two lots.  
85

86 Mr. Landis stated that what the applicant is requesting is a variance of six inches off each side of  
87 the property so that he can plat it into two lots. He stated that his required width to subdivide into  
88 two lots would be 100 ft. and what he is requesting is a variance to that so that he can subdivide it  
89 into two lots.  
90

91 John Dolan asked if the applicant identified the desired width of 49 ½ ft. for each of the two lots.  
92

93 Mr. Landis stated that that was correct; he wants to subdivide them equally.  
94

95 Mr. Muniz asked what record would there be of the variance for both lots.  
96

97 Mr. Landis stated that the variance would go with the land forever. He stated that the variance  
98 findings would be in each street file.  
99

Mark Caldwell, De Four Trace, Seabrook, Texas, after being sworn in, testified that he was acting in behalf of his daughter who owned the property. He stated that when they ordered the survey, they found out that the property was only 99 ft. Mr. Caldwell stated that the entire frontage of Meyer starting at 1<sup>st</sup> Street to the property in question totaled 400 ft. He stated that the three lots on the end total 201 ft. which was probably originally 200 ft. divided by three and rounded up. The next lot up the street has an overlap as opposed to a gap of 1 ft., so it should be 100 ft. and not 99 ft. The other lots should be 200 ft. divided equally and not 201 ft. divided equally. His lot is 99 ft. with a 1 ft. gap between it and the adjoining property. He stated that it was a compounded problem that probably started several blocks away. He has tracked the error back to 1923. Mr. Caldwell stated that they wanted to subdivide it into two lots. They are not asking for any special setbacks or anything else.

Kneothia Smith, Meyer Street, Seabrook, Texas, after being sworn in testified that the 1 foot gap was a natural drainage that was left off the property because it always flooded.

### 3.0 NEW BUSINESS

#### 3.1 Discussion, consideration and possible action concerning the request for a variance of 0 feet to the 10 foot side-yard setback for boathouses in the R-1 (Single-family detached) zoning district.

Chairman Langgard stated that they would vote on the questions.

**A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved which are not applicable to other lands, structures or buildings in the same district.**

**Applicant's Answer:** The existing offset structures are built on property lines, existing narrow lots and vintage construction requirements, are unique to the section of Mud Bayou where the variance is being requested.

***We find accordingly.***

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

**B. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this ordinance.**

**Applicant's Answer:** The subject is only applicable to our location because all surrounding homeowners have previously constructed within the parameters for which we are requesting a variance.

***We find accordingly.***

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

C. That the special conditions and circumstances do not result from the actions of the applicant.

**Applicant's Answer:** At present, we have not made any provisions with the subject property or existing structures that have influenced the circumstances or conditions. There is currently a pre-existing structure built on the property line, and the plan is to remove and replace with a boathouse.

*We find accordingly.*

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

**Applicant's Answer:** This request is only subject to this location consistent with the as built standards for the other homeowners on the Bayou where we are requesting the variance.

*We find accordingly.*

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

E. That a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

**Applicant's Answer:** If not allowed to build with the approved variance to build up to the property line, will result in unique requirements to this location compared to the neighboring properties. The planned design projects the north property boat house access due to unique bayou/bulkhead orientation. Building a structure without this variance will result in a less than desired property improvement structure for increasing property value.

*We find accordingly, for the reasons expressed herein:*

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

## VARIANCE GRANTED

### 3.2 Discussion, consideration and possible action concerning the request for a variance of ½ foot from the required 50 foot lot width requirement in the OS (Old Seabrook) zoning district.

Chairman Langgard stated that they would vote on the questions.

A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved which are not applicable to other lands, structures or buildings in the same district.

**Applicant's Answer:**

1. A believed "survey error" exists dating back to 1923 which in effect, creates a 1 foot un-owned and un-claimed strip of land adjoining the southern border of the property with the adjoining lot. The adjoining lot also has a 1 foot strip that is un-owned and un-claimed to its south making this condition peculiar and unique to this property.
2. The 1 foot strip(s), if combined with the deeded and platted 99 foot wide lot(s) would yield a 100 foot wide lot(s) unlike other properties in Seabrook.

***We find accordingly.***

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

**B. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this ordinance.**

**Applicant's Answer:**

1. Other property owners in the Old Seabrook District ("OS") commonly enjoy smaller lots per code of not less than 50x120 feet (6,000 sqft). Most lots in the OS District are actually 50x125 feet (6,250 sqft) which was likely the standard size lot when the City was originally platted (see attached HCAD facet map).
2. The proposed variance would create 2 lots of 7,424 sqft (49.5' x 150') which is larger than most existing OS District lots and substantially larger than required by city ordinance.
3. Without a variance, the property would have to remain a single lot, thereby depriving the applicant of the opportunity to build 2 homes on lots similar to those envisioned by ordinance in the OS District.

***We find accordingly.***

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

**C. That the special conditions and circumstances do not result from the actions of the applicant.**

**Applicant's Answer:**

1. As the applicant did not create the survey error in 1923, the special conditions requiring a variance did not result from the actions of the applicant. The applicant purchase the lot from a Constables tax sale which indirectly paid all the back taxes owned to Seabrook.
2. The 1 foot strip remains un-claimed and un-deeded to date.

***We find accordingly.***

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

**D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.**

**Applicant's Answer:**

1. Granting of this variance will grant to applicant the same privilege as others in OS enjoy and no greater, which is to build a residence on a 6,000+ square foot lot.
2. No revised setbacks or special use requests are being sought by applicant.
3. With the variance, the nominal building envelope width will reduced by 6 inches.
4. The actual side setback from the adjoining lot to the south will be greater than required by code with 5 foot setback and 1 foot from the unclaimed strip, totaling 6 feet.
5. The Applicant is not seeking any special setbacks or special use exceptions.

***We find accordingly.***

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

**E. That a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.**

**Applicant's Answer:**

1. Literal enforcement of the 50 foot minimum street frontage would limit the property to a single home or a duplex which is not in the City or applicant's best interest and would create an unnecessary hardship and burden on the applicant.
2. The City of Seabrook would also be deprived of 2 building lots in the OS District. The OS District promotes smaller lots and higher density necessary to sustain and benefit the businesses in Old Seabrook thereby benefitting all Seabrook residents.
3. The variance request would not be necessary if the survey error was not created and perpetuated for over 90 years unrelated to the applicant.
4. As ownership of the 1 foot strip is not claimed, contested or deeded to any person, the legal cost to have the property deeded to the applicant while likely to be granted would be prohibitively expensive from a time and economic standpoint and may well exceed the current value of the entire property.
5. The legal process would create an additional undue and unnecessary hardship and delay on the applicant and would not result in any noticeable difference in the type, size or location of any structure built on the property.

***We find accordingly, for the reasons expressed herein:***

Ayes: Dolan, Langgard, Muniz, Nguyen, and Poston

Nays:

Abstained:

**VARIANCE GRANTED**

**4.0 APPROVAL OF MINUTES**

**4.1 Consideration and possible action concerning the minutes from the April 10, 2013 meeting.**

**Motion was made by Gail Poston and seconded by John Dolan**

297  
298 *To approve the minutes from the April 10, 2013 meeting as written.*  
299

300 Ayes: Dolan, Langgard, Muniz, Nguyen and Poston  
301 Nays: None  
302

303 **MOTION CARRIES BY UNANIMOUS CONSENT.**  
304

305 **Motion was made by John Dolan and seconded by Richard Nguyen.**  
306

307 *To adjourn the Board of Adjustments meeting.*  
308

309 **MOTION CARRIES BY UNANIMOUS CONSENT.**  
310

311 Meeting adjourned at 7:38 p.m.  
312

313 **APPROVED THIS 29th DAY OF JULY, 2013.**  
314

315   
316 Sue Langgard, Chairman  
317  
318

  
Alesia Hammock, Secretary